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 9 CITY AND COUNTY OF SAN FRANCISCO  
 HEATHER FONG, in her official capacity,  
 10 JOHN KESSOR, MICHELLE ALVIS and  
 PAUL MORGADO

11  
 12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA

14 KATHLEEN ESPINOSA, as a personal  
 representative of the Estate of decedent ASA  
 15 SULLIVAN; A.S., by and through his  
 Guardian ad Litem, NICOLE GUERRA,

16 Plaintiffs,

17 vs.

18 CITY AND COUNTY OF SAN  
 19 FRANCISCO, HEATHER FONG, in her  
 capacity as Chief of Police; JOHN KESSOR,  
 20 MICHELLE ALVIS and PAUL MORGADO,  
 et al.,

21 Defendants.

Case No. C06-04686 JSW

**DEFENDANTS' ADMINISTRATIVE MOTION  
 TO CONTINUE FINAL PRETRIAL  
 CONFERENCE; DECLARATION;  
 PROPOSED ORDER**

[UNOPPOSED]

Trial Date: September 7, 2014

Current Pretrial Conf.: February 10, 2014

22  
 23  
 24 **RELIEF REQUESTED**

25 The Court continued the trial date in this matter from March 10 to September 8, 2014, but the  
 26 final pretrial conference date was not continued and remains set for February 10, 2014. Defendants  
 27 respectfully request that the pretrial conference be continued to either August 18 or August 25, 2014.

28 Plaintiffs do not oppose the request. (Keith Decl. ¶ 3.)

**BACKGROUND**

1  
2 This matter was set for trial in December 2013, but the Court continued the trial on its own  
3 motion to March 10, 2014, with a final pretrial conference set for February 10, 2014. (Doc. 347.)

4 After trial was set for March 10, 2014, Plaintiffs requested a continuance due to Plaintiffs'  
5 counsel's pre-existing trial date, and Defendants stipulated to the continuance. The Court granted the  
6 stipulated request and continued trial to September 8, 2014. (Doc. 353.) However, the stipulation and  
7 order were silent concerning the final pretrial conference date, and therefore the final pretrial  
8 conference remains on calendar for its original date, February 10, 2013 at 2 p.m.

**GOOD CAUSE EXISTS TO CONTINUE THE FINAL PRETRIAL CONFERENCE**

9  
10 Defendants respectfully request that the final pretrial conference be continued to a date closer  
11 to trial. Plaintiffs do not oppose the request. (Keith Decl. ¶ 2.)

12 Good cause exists because defendants' lead trial counsel, Deputy City Attorney Blake Loeb,  
13 is having back surgery tomorrow, the date of which just had to be advanced due to his increasing  
14 symptoms, and his recovery time is expected to last for more than three weeks, past February 10.  
15 (Keith Decl. ¶ 3.) Therefore, there is a need to continue the pretrial conference.

16 Defendants respectfully suggest that the final pretrial conference be continued to a date closer  
17 to trial. Defendants note that the Court already held one final pretrial conference and that many legal  
18 matters such as motions in limine were already resolved as a result. (Doc. 309 (civil minute order),  
19 Doc. 336 (further ruling on motions in limine).) Therefore, the parties and the Court have already  
20 obtained the benefit of an early final pretrial conference. Moving the currently scheduled final pretrial  
21 conference closer to trial would more effectively permit the Court and the parties to address logistics,  
22 scheduling, and any new matters that may arise over the next several months that will affect the  
23 conduct of trial. (Keith Decl. ¶ 4.)

24 Therefore, Defendants respectfully propose that the final pretrial conference be set for Monday  
25 August 18, 2014 at 2pm, or alternatively Monday August 25, 2014 at 2pm. Counsel anticipates not  
26 being available on August 11, 2014. (Keith Decl. ¶ 5.)

27 //

**CONCLUSION**

For the reasons discussed above Defendants respectfully request that the pretrial conference in this matter be continued from February 10, 2014 to either August 18, 2014 or August 25, 2014 at 2:00 pm.

Dated: January 28, 2014

DENNIS J. HERRERA  
City Attorney  
CHERYL ADAMS  
Chief Trial Deputy  
BLAKE P. LOEBS  
PETER J. KEITH  
Deputy City Attorneys

By: /s/ Peter J. Keith  
PETER J. KEITH  
Attorneys for Defendants  
CITY AND COUNTY OF SAN FRANCISCO  
HEATHER FONG, in her official capacity,  
JOHN KEESOR, MICHELLE ALVIS and  
PAUL MORGADO

**DECLARATION OF PETER J. KEITH**

I, Peter J. Keith, declare:

1. I am a Deputy City Attorney with the City and County of San Francisco. I have personal knowledge of the contents of this declaration, and, if called upon to testify, I could and would testify competently to the contents of this declaration.

2. On January 27, I informed Plaintiffs' counsel Ben Nisenbaum of Defendants' request for a continuance and proposed dates, and Mr. Nisenbaum informed me that Plaintiffs do not oppose this request.

3. My colleague Deputy City Attorney Blake Loeb and I are the two attorneys assigned to represent Defendants at trial, with Mr. Loeb as the lead counsel. Mr. Loeb informed me that he is having back surgery tomorrow, the date of which just had to be advanced due to his increasing symptoms, and his recovery time is expected to last for more than three weeks, past February 10.

4. In my experience, a pretrial conference would likely be more effective for the parties and the Court closer to trial. I expect that closer to trial counsel will know more about matters like

1 witness availability and scheduling, as well as any appellate decisions that might bear on trial. In  
2 addition, unforeseen matters may arise in the next several months that may need to be addressed closer  
3 to trial. Therefore, I expect it to be more efficient for the Court, counsel, and parties to continue the  
4 final pretrial conference to a date closer to trial.

5 5. I am unlikely to be available on Monday August 11 due to vacation plans.

6 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
7 true and correct.

8 Executed, January 28, 2014, at San Francisco, California.

9 */s/ Peter J. Keith*  
10 \_\_\_\_\_  
11 PETER J. KEITH

12 **~~PROPOSED~~ ORDER**

13 GOOD CAUSE SHOWN, the Court hereby continues the pre-trial conference in this action  
14 from February 10, 2014 at 2 p.m. to August 1<sup>4</sup> 8, 2014 at 2 p.m.

15 IT IS SO ORDERED.

16  
17 Dated: February 4, 2014

18 *Jeffrey S White*  
19 \_\_\_\_\_  
20 HONORABLE JEFFREY S. WHITE  
21 UNITED STATES DISTRICT JUDGE